

## **REMARKS/ARGUMENTS**

### **1. Status of the Claims and Outstanding Rejections**

Claims 1-36 and 39-50 are pending in the above-referenced patent application and are currently under examination. With entry of the present Amendment, claims 36 and 39-50 have been cancelled without prejudice to subsequent prosecution in a divisional or continuation patent application.

In the Office Action, claims 1-10, 14-28 and 32-49 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. Claims 36 and 39-50 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly non-enabled. Finally, claims 18 and 35 have been rejected under the judicially created doctrine of obviousness-type double patenting. For the reasons set forth herein, each of the Examiner's rejections is overcome.

Applicants acknowledge, with appreciation, the Examiner's indication that "claims 11-13 and 29-31 remain objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims" (*see*, page 13 of the Office Action). Applicants further acknowledge, with appreciation, the Examiner's indication that claims 1-10, 14-17, 19-28 and 32-34 "would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, set forth in this Office Action" (*see*, page 13 of the Office Action).

### **2. Rejection Under 35 U.S.C. § 112, Second Paragraph**

Claims 1-10, 14-28 and 32-49 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite due to the use of the technical terms "substituted alkyl," "substituted aryl" and "substituted heteroaryl." According to the Office Action, the use of the phrase "such as" in the definition of these terms in the specification allegedly renders the metes and bounds of the claims unclear. The Examiner has indicated that this rejection can be overcome by amending the specification to remove the phrase "such as" from the definitions of

substituted alkyl,” “substituted aryl” and “substituted heteroaryl” (*see*, page 3 of the Office Action).

In order to expedite prosecution of the present case, Applicants have amended the specification to remove the phrase “such as” from the definitions of substituted alkyl,” “substituted aryl” and “substituted heteroaryl” in accordance with the Examiner’s suggestion. In view of the amendments to the specification, this rejection is overcome. Accordingly, Applicants urge the Examiner to withdraw the 35 U.S.C. § 112, second paragraph, rejection.

**3. Rejection Under 35 U.S.C. § 112, First Paragraph**

Claims 36 and 39-50 remain rejected under 35 U.S.C. §112, first paragraph, as allegedly non-enabled.

In order to expedite prosecution of present claims 1-10, 14-28 and 32-35, Applicants have cancelled claims 36 and 39-50. As noted above, claims 36 and 39-50 have been canceled without prejudice to subsequent prosecution in a divisional or continuation patent application. In view of the cancellation of claims 36 and 39-50, this rejection is rendered moot. Accordingly, Applicants urge the Examiner to withdraw the 35 U.S.C. § 112, second paragraph, rejection

**4. Obviousness-type Double Patenting Rejection**

Claims 18 and 35 have been rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 13-34 of U.S. Patent No. 6,150,416. The Examiner indicated that this rejection can be overcome by filing a Terminal Disclaimer (*see*, pages 12 and 13 of the Office Action).

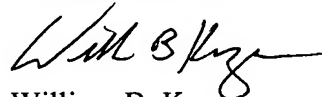
Applicants respectfully request that this obviousness-type double patenting rejection be held in abeyance until Applicants receive from the Examiner an indication regarding allowable subject matter. At that time, Applicants will file a Terminal Disclaimer as suggested by the Examiner or, alternatively, cancel the conflicting claims.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



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